

HOUSE _____ **AMENDMENT NO.** _____

Offered By

AMEND House Committee Substitute for Senate Bill No. 0813, Section 339.549, Page 30, Line 17, by inserting the following after all of said Line:

“408.052. 1. No lender shall charge, require or receive, on any residential real estate loan, any points or other fees of any nature whatsoever, excepting insurance, including insurance for involuntary unemployment coverage, and a one-percent origination fee, whether from the buyer or the seller or any other person, except that the lender may charge bona fide expenses paid by the lender to any other person or entity except to an officer, employee, or director of the lender or to any business in which any officer, employee or director of the lender owns any substantial interest for services actually performed in connection with a loan. In addition to the foregoing, if the loan is for the construction, repair, or improvement of residential real estate, the lender may charge a fee not to exceed one percent of the loan amount for inspection and disbursement of the proceeds of the loan to third parties. Notwithstanding the foregoing, the parties may contract for a default charge for any installment not paid in full within fifteen days of its scheduled due date. The restrictions of this section shall not apply:

(1) To any loan which is insured or covered by guarantee made by any department, board, bureau, commission, agency or establishment of the United States, pursuant to the authority of any act of Congress heretofore or hereafter adopted; and

(2) To any loan for which an offer or commitment or agreement to purchase has been received from and which is made with the intention of reselling such loan to the Federal Housing Administration, Farmers Home Administration, Federal National Mortgage Association, Government National Mortgage Association, Federal Home Loan Mortgage Corporation, or to any successor to the above-mentioned organizations, to any other state or federal governmental or quasi-governmental organization; and

(3) To any mortgage broker making loans on manufactured or modular homes; and

(4) Provided that the 1994 reenactment of this section shall not be construed to be action taken in accordance with Public Law 96-221, Section 501(b)(4). Any points or fees received in excess of those permitted under this section shall be returned to the person from whom received upon demand.

2. Notwithstanding the language in subsection 1 of this section, a lender may pay to an

officer, employee or director of the lender, or to any business in which such person has an interest, bona fide fees for services actually and necessarily performed in good faith in connection with a residential real estate loan, provided:

(1) Such services are individually listed by amount and payee on the loan-closing documents; and

(2) Such lender may use the preemption of Public Law 96-221, Section 501 with respect to the residential real estate loan in question. When fees charged need not be disclosed in the annual percentage rate required by Title 15, U.S.C. Sections 1601, et seq., and regulations thereunder because such fees are de minimis amounts or for other reasons, such fees need not be included in the annual percentage rate for state examination purposes.

3. The lender may charge and collect bona fide fees for services actually and necessarily performed in good faith in connection with a residential real estate loan as provided in subsection 2 of this section; however, the lender's board of directors shall determine whether such bona fide fees shall be paid to the lender or businesses related to the lender in subsection 2 of this section, but may allow current contractual relationships to continue for up to two years.

4. If any points or fees are charged, required or received, which are in excess of those permitted by this section, or which are not returned upon demand when required by this section, then the person paying the same points or fees or his or her legal representative may recover twice the amount paid together with costs of the suit and reasonable attorney's fees, provided that the action is brought within five years of such payment.

5. Any lender who knowingly violates the provisions of this section is guilty of a class B misdemeanor.

443.812. 1. Only one license shall be issued to each person conducting the activities of a residential mortgage loan broker. A residential mortgage loan broker shall register with the director each office, place of business or location in Missouri where the residential mortgage loan broker conducts any part of the residential mortgage loan broker's business pursuant to section 443.839.

2. Residential mortgage loan brokers may only solicit, broker, fund, originate, serve and purchase residential mortgage loans in conformance with sections 443.701 to 443.893 and such rules as may be promulgated by the director.

3. No residential mortgage loan broker shall permit an unlicensed individual to engage in the activities of a mortgage loan originator and no residential mortgage loan broker shall permit a mortgage loan originator to engage in the activities of a mortgage loan originator under the supervision of the residential mortgage loan broker until that mortgage loan originator is shown to be employed by the residential mortgage loan broker as provided in this section.

4. Each residential mortgage loan broker shall report and file a listing with the director

1 showing each mortgage loan originator licensed in Missouri and employed under the supervision
2 of the residential mortgage loan broker. The listing shall show the name and unique identifier of
3 each mortgage loan originator. The listing shall be updated with changes and filed no later than
4 the next business day. The director may authorize a system of reporting that shows mortgage loan
5 originators employed by Missouri residential mortgage loan brokers via the NMLSR in
6 substitution for the report and filing requirement under this subsection.

7 5. The director may grant waivers of residential mortgage loan broker licensing
8 requirements for persons engaged primarily in servicing residential mortgage loans where such
9 waiver shall benefit borrowers including in particular the requirement to maintain a full-service
10 office in Missouri.

11 6. (1) Notwithstanding any other laws to the contrary, the provisions of this subsection
12 shall only apply to residential mortgage loan brokers engaged primarily in the business of
13 brokering, funding, or purchasing loans that are secured by a manufactured home or modular unit
14 as those terms are defined under chapter 700. For the purposes of this subsection, the term
15 "engaged primarily" shall mean a residential mortgage loan broker that derives seventy-five
16 percent or more of its gross income in Missouri from the brokering, funding, or purchasing of
17 loans that are secured by a manufactured home or modular unit as those terms are defined under
18 chapter 700.

19 (2) No residential mortgage loan broker licensed in this state shall be required to maintain
20 a full-service office in Missouri; except that, nothing in this subsection shall be construed as
21 relieving such broker of the requirements to be licensed in this state and obtain a certificate of
22 authority from the secretary of state's office to transact business in this state.

23 (3) Any residential mortgage loan broker licensed in this state who does not maintain a
24 full-service office in Missouri shall file with the license application an irrevocable consent, in a
25 form to be determined by the director and duly acknowledged, which provides that for any suits
26 and actions commenced against the broker in the courts of this state and, if necessary for any other
27 actions brought against the broker, the venue shall lie in Missouri.

28 (4) The director may assess the reasonable costs of any investigation incurred by the
29 division which are outside the normal expense of any annual or special examination or any other
30 costs incurred by the division as a result of a licensed residential mortgage loan broker not
31 maintaining a full-service office in Missouri.”; and

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34 Further amend said bill by amending the title, enacting clause, and intersectional references
35 accordingly.